

MINUTES

MONTANA SENATE 65th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Keith Regier, on February 17, 2017 at 9:00 AM, in Room 303 Capitol

ROLL CALL

Members Present:

Sen. Keith Regier, Chair (R)
Sen. Jennifer Fielder, Vice Chair (R)
Sen. Carlie Boland (D)
Sen. Jen Gross (D)
Sen. Steve Hinebaugh (R)
Sen. Jedediah Hinkle (R)
Sen. Margaret (Margie) MacDonald (D)
Sen. Scott Sales (R)
Sen. Diane Sands (D)
Sen. Nels Swandal (R)
Sen. Chas Vincent (R)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 148, 2/9/2017

Executive Action: SB 92-Do Pass As Amended, SB 99-Do Pass As Amended, SB 170-Do Pass As Amended, HB 247-Be Concurred In As Amended, HB 64-Be Concurred In-Motion Withdrawn, SB 202-Tabled, SJ 12-Tabled, HB 277-Tabled
Committee Bill Draft Request for elimination of the Marriage License Requirement

EXECUTIVE ACTION ON SB 92

00:02:09 **Motion:** Sen. Fielder moved that **SB 92 DO PASS.**

00:03:18 **Motion:** Sen. Fielder moved that **SB 92 BE AMENDED.**
EXHIBIT(jus35a01)

Discussion:

00:02:50 Sen. Albert Olszewski, SD 6
00:11:10 Sen. Hinkle
00:11:26 Sen. Olszewski
00:11:45 Chairman Regier
00:11:53 Sen. Olszewski
00:12:46 Sen. Sands
00:13:19 Beth Brenneman, Disability Rights Montana
00:14:03 Sen. Olszewski
00:14:59 Sen. Gross
00:15:35 Sen. Olszewski
00:18:30 Sen. Fielder
00:19:11 Sen. Olszewski

00:20:09 **Vote:** Motion carried unanimously by voice vote.

00:20:21 **Motion:** Sen. Fielder moved that **SB 92 DO PASS AS AMENDED.**

Discussion:

00:20:30 Sen. Sands
00:20:56 Sen. Hinkle
00:21:24 Sen. Gross
00:21:53 Sen. Boland

00:22:35 **Vote:** Motion carried 9-2 by roll call vote with Sen. Hinkle and Sen. S. Sales voting no.

EXECUTIVE ACTION ON HB 64

00:22:48 **Motion:** Sen. Fielder moved that **HB 64 BE CONCURRED IN.**

Discussion:

00:23:18 Sen. Sands
00:23:47 Sen. Vincent
00:24:04 Sen. Gross
00:24:28 Sen. Fielder
00:25:08 Sen. Gross
00:25:15 President Sales

00:25:36 Sen. Fielder

00:26:34 Sen. Gross

00:27:04 Without objection, Sen. Fielder withdrew the BE CONCURRED IN motion.

HEARING ON HB 148

Opening Statement by Sponsor:

00:27:42 Rep. Daniel Zolnikov (R), HD 45, opened the hearing on HB 148, Generally revise privacy laws related to electronic communications.

[EXHIBIT\(jus35a02\)](#)

Proponents' Testimony:

00:33:28 S.K. Rossi, director, Advocacy and Policy, ACLU

00:35:19 Nanette Gilbertson, Montana Library Association

00:36:55 Tucker Finley, Montana Public Interest Research Group

00:37:15 Eric Fulton, Treasure State Internet and Telegraph (TSIT)

00:40:18 Kyle Schmauch, self

00:45:47 Wes Krawczyk, self

[EXHIBIT\(jus35a03\)](#)

00:47:36 Zack MacQuarrie, self

Opponents' Testimony:

00:48:25 Chad Parker, assistant attorney general, Prosecutions Services Bureau, Department of Justice (DOJ)

[EXHIBIT\(jus35a04\)](#)

01:08:32 Mark Murphy, Montana County Attorneys Association

Informational Testimony:

None

Questions from Committee Members and Responses:

01:14:54 Sen. Hinkle

01:15:31 Mr. Parker, DOJ

01:16:19 Sen. Hinkle

01:16:46 Mr. Fulton, TSIT

01:18:03 Sen. Gross

01:18:26 Mr. Parker

01:19:03 Sen. Gross

01:19:24 Ms. Rossi, ACLU

01:19:40 Rep. Zolnikov

01:21:39 Sen. Swandal

01:22:05 Rep. Zolnikov

01:24:46 Sen. MacDonald
 01:25:54 Mr. Parker
 01:29:31 Sen. Fielder
 01:29:47 Rep. Zolnikov
 01:32:02 Sen. Gross
 01:32:30 Todd Everts, Legislative Services Division
 01:33:15 Sen. Swandal

Closing by Sponsor:

01:33:23 Rep. Zolnikov
 01:38:32 Brief Recess
 01:48:40 Reconvene

EXECUTIVE ACTION ON SB 99

01:49:10 **Motion:** Sen. Fielder moved that **SB 99 DO PASS.**

01:49:37 **Motion:** Sen. Swandal moved that **SB 99 BE AMENDED.**
[**EXHIBIT\(jus35a05\)**](#)

Discussion:

01:50:56 President Sales
 01:51:04 Sen. Swandal
 01:51:58 **Vote:** Motion carried 7-4 by roll call vote with Sen. Hinebauch, Sen. Hinkle, Sen. K. Regier and Sen. S. Sales voting no.
 01:52:02 **Motion:** Sen. Fielder moved that **SB 99 DO PASS AS AMENDED.**
 01:52:09 **Motion:** Sen. K. Regier moved that **SB 99 BE AMENDED.**
[**EXHIBIT\(jus35a06\)**](#)

Discussion:

01:52:34 Sen. MacDonald
 01:53:04 Chairman Regier
 01:54:02 Sen. Hinkle
 01:54:29 Sen. Fielder
 01:55:46 Chairman Regier
 01:56:21 **Vote:** Motion carried 7-4 by roll call vote with Sen. Boland, Sen. Gross, Sen. MacDonald and Sen. Sands voting no.

01:56:26 **Motion/Vote:** Sen. Fielder moved that **SB 99 DO PASS AS AMENDED**. Motion carried 7-4 by roll call vote with Sen. Boland, Sen. Gross, Sen. MacDonald and Sen. Sands voting no.

EXECUTIVE ACTION ON SB 170

01:57:19 **Motion:** Sen. Hinebauch moved that **SB 170 DO PASS**.

Discussion:

01:57:47 Sen. Fielder

01:57:55 Todd Everts, Legislative Services Division

01:58:07 **Motion:** Sen. Hinebauch moved that **SB 170 BE AMENDED**.
[EXHIBIT\(jus35a07\)](#)

Discussion:

01:59:02 Sen. Sands

01:59:12 President Sales

01:59:20 Mr. Everts, LSD

02:01:11 Chairman Regier

02:01:17 Mr. Everts

02:01:26 Sen. Hinkle

02:01:38 Mr. Everts

02:01:45 Sen. Sands

02:02:07 Sen. Hinebauch

02:02:38 Sen. Fielder

02:03:28 Sen. Hinebauch

02:03:39 Mr. Everts

02:04:05 Sen. Fielder

02:04:31 **Vote:** Motion carried 10-1 by roll call vote with Sen. Boland voting no.

02:05:13 **Motion:** Sen. Hinebauch moved that **SB 170 DO PASS AS AMENDED**.

02:05:25 **Motion:** Sen. Vincent moved that **SB 170 BE AMENDED**.
[EXHIBIT\(jus35a08\)](#)

Discussion:

02:07:14 Chairman Regier

02:07:25 Sen. Fielder

02:08:09 Sen. Vincent

02:08:59 Without objection, Sen. Vincent withdrew the BE AMENDED motion.

02:09:14 Sen. Fielder

02:11:14 Sen. Sands

02:11:58 Sen. Hinebauch

02:13:02 Sen. Gross
02:13:59 Sen. MacDonald
02:14:58 Sen. Boland
02:15:14 Chairman Regier
02:16:05 Sen. Sands

02:16:36 **Motion/Vote:** Sen. Hinebauch moved that **SB 170 DO PASS AS AMENDED**. Motion carried 8-3 by roll call vote with Sen. Boland, Sen. Gross and Sen. MacDonald voting no.

02:17:35 Sen. Fielder

EXECUTIVE ACTION ON SB 202

02:18:05 **Motion/Vote:** Sen. Hinkle moved that **SB 202 BE TABLED**. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SJ 12

02:20:05 **Motion:** Sen. Fielder moved that **SJ 12 DO PASS**.

Discussion:

02:21:10 President Sales
02:21:47 Sen. Fielder
02:24:12 Sen. Hinebauch
02:24:35 President Sales
02:24:56 Sen. Fielder
02:25:08 Sen. Hinebauch

02:25:50 **Vote:** Motion failed unanimously by roll call vote.

02:25:54 **Motion:** Sen. Fielder moved that **SJ 12 BE TABLED AND THE VOTE REVERSED**. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 277

02:26:27 **Motion:** Sen. Fielder moved that **HB 277 BE CONCURRED IN**.

Discussion:

02:26:57 Sen. Vincent
02:27:44 Sen. Hinkle
02:28:28 Sen. Swandal
02:29:32 Chairman Regier
02:29:48 Sen. Swandal
02:30:50 Sen. Fielder

02:31:39 **Vote:** Motion failed 4-7 by roll call vote with Sen. Fielder, Sen. Hinebauch, Sen. Hinkle and Sen. K. Regier voting aye.

02:32:09 **Motion/Vote:** Sen. Fielder moved that **HB 277 BE TABLED AND THE VOTE REVERSED**. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 247

02:32:33 **Motion:** Sen. Fielder moved that **HB 247 BE CONCURRED IN**.

Discussion:

02:32:59 Sen. Fielder

02:34:09 **Motion/Vote:** Sen. Sands moved that **HB 247 BE AMENDED** with a **CONCEPTUAL AMENDMENT FOR PAGE 1, LINE 23, INSERT "SEXUAL" BETWEEN "ANY ACTIVITY"**. Motion carried unanimously by voice vote.

02:35:09 **Motion:** Sen. Fielder moved that **HB 247 BE CONCURRED IN AS AMENDED**.

Discussion:

02:35:23 Sen. Vincent

02:36:07 Sen. Sands

02:36:28 **Vote:** Motion carried unanimously by voice vote. Sen. Vincent will carry the bill.

02:37:20 Sen. Vincent

COMMITTEE BILL FOR ELIMINATION OF STATE MARRIAGE LICENSE REQUIREMENT

Discussion:

02:38:24 President Sales

02:41:09 Chairman Regier

02:41:43 Sen. Swandal

02:42:17 Sen. Sands

02:42:46 **Motion:** Sen. Fielder moved to **CREATE A COMMITTEE BILL FOR ELIMINATION OF THE STATE MARRIAGE LICENSE REQUIREMENT**.

[EXHIBIT\(jus35a09\)](#)

Discussion:

02:43:36 Sen. MacDonald

02:44:08 Todd Everts, Legislative Services Division (LSD)

02:44:25 Sen. Vincent

02:45:28 Mr. Everts, LSD

02:45:39 President Sales

02:46:29 Sen. Vincent

02:46:49 Sen. Fielder

02:47:15 Mr. Everts

President Sales absent from the hearing room.

02:48:20 Chairman Regier

02:48:34 Mr. Everts, LSD

02:49:07 Sen. Sands

02:49:48 Chairman Regier

02:50:04 Sen. Gross

02:50:10 Sen. Vincent

02:50:34 Without objection, Sen. Fielder withdrew her motion create a Committee bill.

02:50:39 **Motion:** Sen. Fielder moved that **LEGISLATIVE SERVICES BE AUTHORIZED TO FURTHER EXAMINE AND THEN DRAFT A BILL FOR THE COMMITTEE'S CONSIDERATION FOR ELIMINATING THE STATE MARRIAGE LICENSE REQUIREMENT.**

02:51:03 **Vote:** Motion carried 10-1 by voice vote with Sen. MacDonald voting no. Sen. S. Sales voted by proxy.

ADJOURNMENT

Adjournment: 11:53 A.M.

Pam Schindler, Secretary

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Additional Documents:

EXHIBIT([jus35aad.pdf](#))